

REMARKS

The non-final Office Action issued October 6, 2003 has been reviewed and the comments of the U.S. Patent and Trademark Office have been considered. Claim 54 has been canceled by this amendment. Claims 42 and 48 have been canceled without prejudice or disclaimer in the amendment filed April 14, 2003. Claims 10-13 and 21-30 have been canceled without prejudice or disclaimer in the amendment filed January 11, 2002, and claims 31 and 32 have been canceled without prejudice or disclaimer in the amendment filed September 03, 2002. Claims 1 and 5 have been amended. Accordingly, applicants request reconsideration and allowance of the pending claims 1-9, 14-20, 33-41, 43-47, and 49-53.

Applicants thank the Examiner for indicating that claims 4, 14-20, 33-41, 43-47, and 49-53 are in condition for allowance. Applicants also thank the Examiner for indicating that claim 54 would be allowable if rewritten into independent form.

Claims 1-3 and 5-9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,083,345 to Davis in view of U.S. Patent No. 4,530,324 to Tanaka *et al* (“Tanaka”). Applicants respectfully traverse this rejection because the proposed combination of Davis in view of Tanaka fails to teach or suggest the claimed invention as a whole, as recited in each of independent claims 1 and 5.

As rejected, each of the independent claims 1 and 5 recites a high pressure pump that has, *inter alia*, at least two pistons, with one of the at least two or more pistons having a surface area different from the other of the at least two or more pistons.

The Office Action concludes that, at the time the invention was made, it would have been obvious to one of ordinary skill in the art to modify the fuel pumps of Davis to include one piston of one pump to have a different surface area than the pistons of another pump, based on common knowledge. However, no documentary evidence in support of such “common knowledge,” as set forth in MPEP § 2144.03 has been identified. Notwithstanding the absence of documentary evidence for such common knowledge, applicants respectfully assert that the proposed modification of Davis in view of Tanaka is contrary to either Davis and Tanaka because the pistons of Davis or Tanaka apparently have identically sized pistons such that all of the claimed limitations are not taught or suggested, and therefore, a *prima facie* case of obviousness has not been established. And except for an unsupported assertion by the Examiner,

there is no motivation or suggestion to modify one piston of at least two pistons in a single pump to have a different surface area, as recited along with other features in claims 1 and 5.

In an effort to advance prosecution of this application, however, applicants have amended claims 1 and 5 to recite the subject matter of claim 54, which the Examiner has indicated as reciting allowable subject matter. Applicants respectfully reiterate, however, that one of ordinary skill in the art would not have been motivated by Davis or Tanaka to provide for the features of claims 1 and 5 as rejected. In view of this amendment to incorporate allowable subject matter of claim 54 into claims 1 and 5, claims 1 and 5 are in condition for allowance.

Claims 2, 3, and 6-9 depend ultimately from one of allowable claims 1 and 5, are therefore also in condition for allowance, as well as for reciting additional features.

A Change of Attorney Docket Number and Change of Correspondence Address is submitted herewith. Applicant respectfully notes that An Appointment of Associate Power of Attorney was filed in this application on January 9, 2002. Accordingly, applicants respectfully request entry of the Change of Attorney Docket Number and Change of Correspondence Address and confirmation by the Office to this effect in the next official communication.

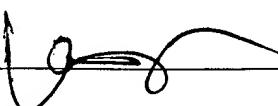
Except for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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By:



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